

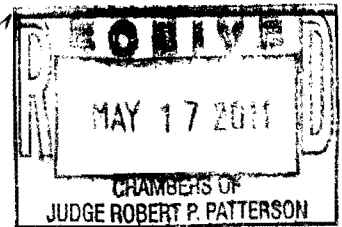
STORCH AMINI & MUNVES PC

A New York Professional Corporation

Lita Beth Wright
Member NY & NJ Bars

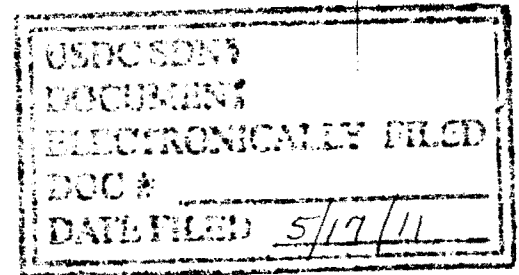
May 16, 2011

e-mail: lbwright@samlegal.com
direct: 212.497.8207



VIA HAND DELIVERY

Hon. Robert P. Patterson, Jr.
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007



Re: David R. Kittay, Trustee v. Joseph Korff, 08 CV 7421(RPP)

Dear Judge Patterson:

We are counsel to Plaintiff David R. Kittay, Trustee (the "Trustee"), in the above-referenced matter and write briefly to request leave to file the enclosed supplemental declaration in further support of the Trustee's pending motion for attorneys' fees, costs and pre judgment interest (the "Fee Motion") that was fully submitted on February 25, 2011. The Trustee seeks to file the supplemental declaration so that he may include the fees and expenses incurred since the Fee Motion was fully submitted, including those incurred in opposing the defendant's motion pursuant to FED. R. CIV. P. 50 and 59 for Judgment as a Matter of Law or a new trial and performing tasks related to Korff's appeal to the Second Circuit.

Thank you for your consideration of this matter.

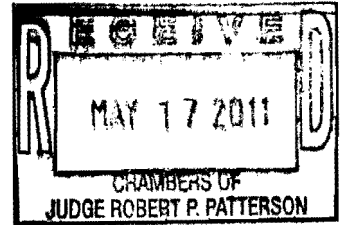
Respectfully submitted,

Lita Beth Wright

cc: Carl Oberdier, Esq. (via email)
Andrea Marcus, Esq. (via email)

*application granted.
So ordered
Robert P. Patterson
5/17/11*

BIJAN AMINI - [BA 3533]
LITA BETH WRIGHT - [LW 0442]
BONNIE A. TUCKER - [BT 8340]
STORCH AMINI & MUNVES PC
2 Grand Central Tower, 25th Floor
140 East 45th Street
New York, New York 10017
Telephone: (212) 490-4100
Facsimile: (212) 490-4208
bamini@samlegal.com
lbwright@samlegal.com
btucker@samlegal.com
Attorneys for Plaintiff
David R. Kittay, Trustee



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
DAVID R. KITTAY, TRUSTEE,	:	
	:	08 Civ. 7421 (RPP)
Plaintiff,	:	
	:	SUPPLEMENTAL DECLARATION
-against-	:	<u>OF LITA BETH WRIGHT</u>
	:	
JOSEPH KORFF,	:	
	:	
Defendant.	:	
-----	X	

LITA BETH WRIGHT hereby declares under penalty of perjury as follows:

1. I am an officer of the law firm of Storch Amini & Munves PC ("SAM"), attorneys for plaintiff, David R. Kittay, Trustee (the "Trustee" or "Plaintiff"), in the above-captioned matter. As such, I am fully familiar with the facts and circumstances below, and I submit this supplemental declaration to reflect additional amounts billed since Plaintiff's motion for an award of his attorneys' fees and costs incurred in connection with this action pursuant to New York Debtor-Creditor Law ("DCL") § 276-a and FED. R. CIV. P. 54(d) was fully submitted on February 25, 2011.

2. This declaration contains an itemization of SAM's additional attorney and paralegal time expended, and disbursements made, since the filing of Plaintiff's reply memorandum of law in support of his motion for attorneys' fees submitted on February 25, 2011. Attached hereto as Exhibit 1 is a true and accurate compilation of SAM's contemporaneous time records, detailing the hours spent by each attorney and paralegal on each task, as well as a true and correct itemization of the disbursements from February 26, 2011 through and including May 16, 2011.

3. As the Court is aware, Plaintiff prevailed on each of his claims against Defendant Joseph Korff ("Korff") following a four-day jury trial.

4. With the submission of Plaintiff's motion for attorneys' fees, Plaintiff included SAM's billing records from the commencement of the litigation through and including January 31, 2011. See Exhibit B to the Declaration of Lita Beth Wright, Esq. dated February 3, 2011.

5. With the submission of Plaintiff's reply memorandum in support of his motion for attorneys' fees, Plaintiff included SAM's billing records from the commencement of the litigation from February 1, 2011 through and including February 25, 2011. See Exhibit 1 to the Reply Declaration of Bonnie A. Tucker, Esq. dated February 25, 2011.

6. Following that submission, Plaintiff incurred time opposing Korff's motion pursuant to FED. R. CIV. P. 50 and 59 for Judgment as a Matter of Law or a new trial and performing tasks, including some legal research, related to Korff's appeal to the Second Circuit. The Trustee incurred \$62,365.50 in fees and \$3,129.73 in expenses in performing this work on behalf of the bankruptcy estate. This work and the fees associated with it were necessary for the Trustee's prosecution of this action.

7. By his motion for attorneys' fees pursuant to DCL § 276-a, the Trustee seeks reimbursement for the fees and expenses incurred in prosecuting this action. As detailed in the February 3, 2011 Declaration of Lita Beth Wright, the Trustee incurred \$249,964.50 in fees and \$62,636.71 in expenses and disbursements associated with initiating this action and prosecuting it through trial and a successful jury verdict. As detailed in the February 25, 2011 Reply Declaration of Bonnie Tucker, the Trustee incurred \$28,660.00 in fees and \$143.45 in expenses associated with the Trustee's attorneys' fees and prejudgment interest applications.

8. Accordingly, SAM's fees and expenses from the commencement of the action through and including May 16, 2011 are \$406,899.89.

9. The Trustee respectfully reserves the right to supplement this fee application for any subsequent proceedings in this action or on appeal.

I hereby declare under penalty of perjury that the foregoing is true and correct. Executed in New York, New York on this 16th day of May, 2011.

/s/ Lita Beth Wright

Lita Beth Wright

STORCH AMINI & MUNVES PC
 2 Grand Central Tower
 140 East 45th Street, 25th Floor
 New York, NY 10017

Invoice submitted to:
 David Kittay, Esq.
 Kittay & Gershfeld
 100 White Plains Road, 2nd Floor
 Tarrytown, NY 10591

May 16, 2011

In Reference To: Douglas E. Palermo Re: Korff

Professional Services

			<u>Hours</u>	<u>Amount</u>
2/28/2011	- BT	Conduct research on standard for a stay pending appeal and motion and bond	1.20	390.00
3/1/2011	- BT	Draft information subpoena and restraining notice to bank; begin drafting notice and subpoena to J. Korff	1.00	325.00
	- RF	Contacted clerk; ordered transcript of judgment	0.30	33.00
3/2/2011	- RF	Prepared restraining notices and subpoenas for banks	0.80	88.00
	- BT	Work on restraining notice and information subpoena to J. Korff; conference with RF re: service of restraining notice on banks	1.00	325.00
3/3/2011	- BT	Review bond posted by J. Korff; emails to D. Kittay and M. Gershfeld re: same; additional work on Information Subpoena to J. Korff	0.50	162.50
	- LBW	Review notice of appeal and related filings; emails with BT re: bond; email to D. Kittay re: appeal	0.40	210.00
3/4/2011	- LBW	Emails with D. Kittay re: appeal	0.20	105.00
3/7/2011	- RF	Contacted court of appeals to correct docket error	0.20	22.00
	- BT	Review Second Circuit filings	0.20	65.00
3/14/2011	- BT	Review Second Circuit rules; prepare attorney notice	0.50	162.50
3/16/2011	- RF	Filed notices of appearance for BT and LBW	0.50	55.00

David Kittay, Esq.

Page 2

			<u>Hours</u>	<u>Amount</u>
3/18/2011	- AK	Pulled cases	0.90	99.00
	- BT	Review J. Korff motion for a judgment notwithstanding the verdict and new trial; conference with LBW and TM re: same; review different versions of motion	2.00	650.00
	- TM	Review JNOV motion filed by defendant; conference with BT re: JNOV motion	1.40	280.00
	- RF	Prepared court papers for attorney review; organized cases	1.30	143.00
	- LBW	Conferences, emails with BT, TM re: Korff's Rule 50 motion	1.50	787.50
3/21/2011	- BT	Begin review of cases cited by Defendant in motion; review declaration and attached exhibits; review trial transcript	2.50	812.50
	- LBW	Review filings, notices re: appeal; review Rule 50 motion; conferences with TM, BT re: opposition	1.50	787.50
3/22/2011	- AK	Checked citations from Judicial Notice of Verdict motion	0.60	66.00
	- TM	Conference with LBW and BT re: JNOV briefing; review JNOV brief and consider points for counterstatement of facts	1.50	300.00
	- RF	Re-filed notice of appearance for LBW; reviewed motion papers and citations for comparison chart for LBW and TM	1.00	110.00
	- BT	Continued review of cases cited by Defendant and shepardize; meeting with TM and LBW re: response to Rule 50 and 59 motion; review documents filed by J. Korff	3.00	975.00
3/23/2011	- RF	Prepared chart of motion citations	1.10	121.00
	- BT	Work on motion in opposition to Rule 50 and 59 motion	4.00	1,300.00
3/24/2011	- RF	Prepared chart of motion citations for BT, TM and LBW; prepared transcript binder for TM	3.50	385.00
	- BT	Conduct research and analyze cases on constructive fraud; work on memorandum of law in opposition; review facts; review filings from Second Circuit; email to D. Kittay and M. Gershfeld re: same	7.00	2,275.00
3/25/2011	- RF	Reviewed trial transcript for relevant excerpts for BT	2.70	297.00
	- BT	Review jury charges and charge conferences in preparation for opposition; continue work on opposition memorandum; conference with TM re: same	6.50	2,112.50
	- TM	Conference with BT re: JNOV opposition; review research folders for tax return estoppel research; review trial transcript for counterstatement of facts	3.30	660.00

David Kittay, Esq.

Page 3

			<u>Hours</u>	<u>Amount</u>
3/26/2011	- TM	Review trial transcript for counterstatement of facts	3.00	600.00
3/27/2011	- BT	Work on memorandum of law in opposition to Rule 50 and 59 motion	4.00	1,300.00
	- TM	Review trial transcript for counterstatement of facts; begin drafting counterstatement of facts	2.60	520.00
3/28/2011	- BT	Conduct research on DCL 278, partial consideration, and objection to jury charge; conference with TM re: opposition and facts; work on memorandum of law	7.00	2,275.00
	- RF	Prepared list of defendant's contentions for BT	0.50	55.00
	- TM	Review trial transcript for counterstatement of facts; continue drafting counterstatement of facts; conference with BT re: issues with briefing	7.30	1,460.00
3/29/2011	- TM	Conference with BT re: briefs; review letters to court	0.30	60.00
	- BT	Continued work on opposition brief; review jury instructions and cases re: charges; emails with C. Oberdier re: extension request	4.50	1,462.50
4/7/2011	- LBW	Review cases cited in Korff's Rule 50 motion	1.20	630.00
	- RF	Contacted ECF and case manager re: attorney notices; reviewed settlements and case docket	1.30	143.00
4/8/2011	- RF	Contacted ECF re: attorney notification status	0.20	22.00
	- TM	Review trial transcript and continue digest for statement of facts	1.20	240.00
4/11/2011	- TM	Review of final day of trial testimony and continue drafting statement of facts and digest	3.70	740.00
	- LBW	Review defendants' memorandum of law in support of Rule 50 and 59 motions; outline issues for briefing; review legal section and comment; review cases	3.50	1,837.50
4/12/2011	- BT	Conduct additional research re: inferences and jury decisions; additional research on actual intent and set off; conference with TM re: opposition brief; work on fact section; revise law and edit preliminary statement	5.50	1,787.50
	- TM	Complete draft of statement of facts; draft badges of fraud section; revise brief	14.50	2,900.00
	- LBW	Review draft memo of law in opposition to Rule 50, 59 motions and comment; email to TM, BT re: draft; conferences with TM re: opposition to Rule 50 motion; review cases	3.70	1,942.50
4/13/2011	- DC	Pulled documents for LBW	0.20	22.00

David Kittay, Esq.

Page 4

		<u>Hours</u>	<u>Amount</u>
4/13/2011	- BT	Review trial transcripts re: additional testimony and trial exhibits; conduct research re: waiver of affirmative defense and jury charges; multiple conferences with LBW and TM re: arguments for brief; review defendant's brief; additional work on opposition brief; conference with RF re: citations to the record	10.50 3,412.50
	- LBW	Reviewing draft opposition to Rule 50/59 motion; reviewing cases; review Korff's brief; revisions to opposition draft	12.00 6,300.00
	- RF	Edited citations in motion papers; drafted declaration; pulled exhibits	3.40 374.00
	- TM	Review and revise brief; revise and redraft portions of the brief upon directions from LBW; draft additional portions of facts section; draft sections re: set-off and directed verdict motion	11.00 2,200.00
4/14/2011	- LBW	Reviewing and revising opposition to Rule 50/59 motion; conferences with BT, TM re: revisions to various sections of the brief; reviewing cases; research	14.00 7,350.00
	- RF	Edited and cited motion papers; drafted declaration; pulled exhibits; prepared documents for filing; e-filed motion papers	10.60 1,166.00
	- TM	Revise and redraft sections in brief on Sections 272 and 276; revise Section 276-a in brief; review complete brief; revisions to complete brief; final review of papers; coordinate filing of brief	15.50 3,100.00
	- RA	Research re: DCL Section 272 elements	0.50 162.50
	- BT	Additional edits and multiple revisions to opposition brief; finalize brief and Declaration of LBW; additional research for brief re: actual fraud and good faith; review trial transcripts re: fact section of brief; conferences with TM and LBW re: same	15.00 4,875.00
4/15/2011	- RF	Prepared courtesy copy of court papers to send to court; contacted ECF re: filing; re-filed declaration; prepared file copy of motion	1.60 176.00
	- JS	Assisted preparation of courtesy copies of declaration of LBW	1.20 132.00
	- BT	Draft courtesy letter to Judge Patterson; telephone call with Clerk re: filing under seal; letter to Electronic Court Filing Clerk re: docketing errors	0.50 162.50
5/3/2011	- LBW	Review defendants' reply brief on motion for judgment as a matter of law and for a new trial; conference with BA re: reply brief; conferences with TM, BT re: reply brief	0.80 420.00
	- TM	Collect and review bills for supplemental fees declaration	0.70 140.00
	- BT	Review reply papers by J. Korff on motion for new trial; conference with LBW and TM re: same	0.50 162.50

David Kittay, Esq.

Page 5

		<u>Hours</u>	<u>Amount</u>
5/4/2011	- RF Pulled and organized cases cited in motion papers received	0.60	66.00
5/6/2011	- BT Review status letter to Second Circuit	0.10	32.50
	- RF Contacted court again re: appearances	0.30	33.00
5/10/2011	- TM Draft supplemental declaration in support of bills; draft letter seeking leave to file supplemental declaration; conference with LBW	1.50	300.00
For professional services rendered		215.10	\$62,365.50

Additional Charges :

		<u>Qty</u>	
2/28/2011	- DIS Messenger- Donald Brown to deliver courtesy copy of Declaration of BT and accompanying Reply Memorandum in Further Support of Plaintiff's Motion for Attorney's Fees and Costs to Judge Patterson (split between 2 matters)	1	8.57
	- DIS Photocopies for February 2011	204	40.80
	- DIS Telecopier charges for February 2011	2	0.80
	- DIS Postage charges for February 2011	1	6.42
	- DIS Research- Westlaw charges for February 2011	1	449.16
3/1/2011	- DIS Filing Fee- Clerk of the Court- 2 transcripts of judgment	1	18.00
	- DIS Messenger- Donald Brown to pick up 2 transcripts of judgment from Judgments Clerk	1	17.15
3/28/2011	- DIS Taxi- BT home	1	11.10
	- DIS Meals- Dinner for BT	1	11.51
	- DIS Taxi- TM home	1	7.00
3/31/2011	- DIS Photocopies and direct to copier print jobs for March 2011	863	172.60
	- DIS Research- Westlaw charges for March 2011	1	456.45
	- DIS Research- Pacer Service Center Invoice SA0131-Q12011- Usage for 1/1-3/31/11	1	40.32
4/12/2011	- DIS Meals- Dinner for BT and TM	1	38.94
	- DIS Taxi- BT home	1	15.24

David Kittay, Esq.

Page 6

			<u>Qty</u>	<u>Amount</u>
4/12/2011	- DIS	Taxi- TM home	1	7.00
4/13/2011	- DIS	Meals- Dinner for LBW, BT, and TM	1	75.33
	- DIS	Taxi- BT home	1	18.24
	- DIS	Taxi- TM home	1	7.00
4/14/2011	- DIS	Paralegal Overtime - Anne Singer (7.3 hours) - Edits to Memorandum of Law in Opposition to Defendant's Motion for Judgment as a Matter of Law; draft and finalize Table of Contents and Table of Authorities; finalize LBW, TM and BT revisions to Memorandum of Law	1	402.74
	- DIS	Paralegal Overtime - Rachel Flaschner (8.1 hour) - Edited and cited motion papers; drafted declarations; pulled exhibits; prepared documents for filing; e-filed motion papers	1	204.49
	- DIS	Meals- Dinner for LBW, BT, TM, RF, and A. Singer	1	89.27
	- DIS	Taxi- RF home	1	12.60
4/15/2011	- DIS	Messenger- Matt Storch to deliver Memo of Law, LBW declaration, and cover letters to Judge Patterson, Jr.	1	17.15
	- DIS	Taxi- Intaboro Invoice 1150672- A. Singer home	1	129.09
	- DIS	Taxi- BT home	1	13.30
4/29/2011	- DIS	Express Mail- Fedex Invoice 7-486-82283- To Judge Karas	1	11.90
4/30/2011	- DIS	Research- Westlaw charges for April 2011	1	847.56
Total costs				<u>\$3,129.73</u>